

ESA No.14 of 2019 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

ESA No.14 of 2019 (O&M)
Date of decision: 11.09.2019

Raj Rani and others

.....Appellants

versus

Daljit Kaur

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Vijay Sharma, Advocate, for the appellant.
Mr. D.K. Sihag, Advocate, for the respondent.

RAMENDRA JAIN, J. (ORAL)

Third-party-objectors have filed this appeal against judgment dated 11.12.2018 of the appellate Court dismissing their appeal, affirming order dated 13.8.2015 of the executing Court, whereby their objections against the attachment of their self acquired property were dismissed.

Learned counsel for the appellants *inter alia* contends that both the Courts below failed to appreciate that attached property was self-acquired property of the appellants being purchased by them in their individual capacity vide sale deed dated 21.06.1995 and 08.01.1998 much prior to taking loans by their predecessor-in-interest deceased Des Raj. The executing Court failed to appreciate that while decreeing suit of respondent-plaintiff Daljit Kaur, it was specifically observed by the trial Judge that decree-holder would be entitled to recover the decretal amount from the appellants only from the property inherited by them from deceased Des Raj.

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On the other hand, learned counsel for the respondent, refuting above submissions and urging that appellants could not prove that attached property was their self-acquired property, pleaded legality and validity of the impugned order.

Having given thoughtful consideration to the rival submissions, this Court finds that the instant appeal merits acceptance for the reasons to follow.

In a span of around 15 years, after passing of judgment and decree in favour of respondent on 28.01.2004, she could not submit any list of the properties allegedly inherited by the appellants from deceased Des Raj-judgment-debtor. She also could not rebut the stand of appellant that attached property was purchased by them in their individual capacity vide sale deed dated 21.06.1995 and 08.01.1998 which fact was specifically mentioned by them in their objections. The fact remains that same Judicial Officer accepting similar objections of the appellants in two other separate executions filed by father and daughter of respondent-decree-holder for implementation of judgment and decree dated 05.06.2003 and 22.10.2003, dismissed their execution petitions vide separate order dated 27.08.2019, certified copy of which has been produced on record during the course of arguments, holding that executions were lingering on unnecessarily for filing of the list of properties owned by judgment-debtor Des Raj or inherited by appellants from him since last ten years. Considering the above fact, the executing Court was required to accept objections of the appellants.

In view of discussion made above, appeal is allowed.

Impugned judgment and order of both the Courts below are set aside with

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liberty to the respondent-decree-holder to file list of properties inherited by the appellants from their deceased father Des Raj to realise decree in her favour.

(Ramendra Jain)
Judge

September 11, 2019
R.S.

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No